



SENATE JOINT RESOLUTION 13-016

BY SENATOR(S) Carroll, Hudak, Steadman;
also REPRESENTATIVE(S) Pabon, Court, Hullinghorst, Kagan, Labuda,
McLachlan, Melton, Murray, Rosenthal, Schafer, Young, Ferrandino.

CONCERNING AUTHORIZING AND DIRECTING THE COMMITTEE ON LEGAL SERVICES TO RETAIN LEGAL COUNSEL TO REPRESENT THE GENERAL ASSEMBLY AS AMICUS CURIAE IN ANY PENDING OR FUTURE LAWSUIT FOR THE PURPOSE OF PARTICIPATING ONLY TO ADDRESS THE ISSUE OF THE STANDING OF LEGISLATOR-PLAINTIFFS WHEN STANDING IS BASED UPON AN INSTITUTIONAL INTEREST OF THE GENERAL ASSEMBLY.

WHEREAS, To bring an action in a court of law, a complaint must contain allegations that the plaintiff or plaintiffs suffered an injury in fact to a legally protected interest as contemplated by statutory or constitutional provisions; and

WHEREAS, Such a showing of standing is a jurisdictional requirement since courts may exercise their powers only when an actual case or controversy exists; and

WHEREAS, For purposes of standing, injuries may arise from numerous types of legally protected interests, including institutional rights; and

WHEREAS, The General Assembly has constitutionally protected institutional interests which, if threatened by injury, will confer standing upon the General Assembly, such as the General Assembly's exclusive authority to appropriate moneys; and

WHEREAS, The General Assembly's historic practice has been that

individual legislators cannot sue on behalf of the General Assembly, and the General Assembly does not authorize litigation on its own behalf, without express authorization through a joint resolution; and

WHEREAS, Despite not being expressly authorized, individual legislators may still have a sufficiently cognizable injury to establish standing for purpose of advancing an institutional interest if a core legislative power of the General Assembly, and thereby the ability of its members to fulfill their official responsibilities, has been nullified or eliminated; and

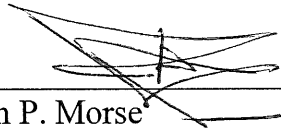
WHEREAS, The involvement of the General Assembly as amicus curiae on the limited issue of standing of individual legislators who are plaintiffs should carry no implication about the views of the General Assembly on the merits of such lawsuits; now, therefore,

Be It Resolved by the Senate of the Sixty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:

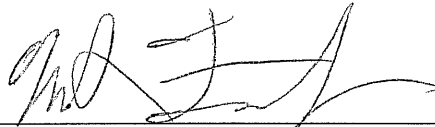
That it is in the best interests of the General Assembly and the state of Colorado that the General Assembly participate as an amicus curiae in any lawsuit in which the General Assembly is not a party but individual members are plaintiffs on the limited issue of standing of those legislator-plaintiffs when standing is based upon advancing an institutional interest of the General Assembly; and

That the Committee on Legal Services, in furtherance of its authority under section 2-3-1001, Colorado Revised Statutes, is authorized and directed to retain legal counsel to represent the General Assembly through participation as an amicus curiae in any pending or future lawsuit in which the General Assembly is not a party on the limited issue of

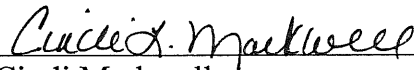
standing of the legislator-plaintiffs if the Committee determines that standing is based upon advancing any institutional interest of the General Assembly.



John P. Morse
PRESIDENT OF
THE SENATE



Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Cindi Markwell
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES